

FILED/ACCEPTED

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

NOV 23 2010

Federal Communications Commission  
Office of the Secretary

In the Matter of	)	MM Docket No. 10-157
	)	
<b>EDDIE FLOYD</b>	)	NAL/Acct. No. 201041410018
	)	
Licensee of FM Translator Station K273AF, Carson, City, Nevada	)	FRN: 0011733425
	)	Facility ID No. 13529
	)	
<b>EDDIE FLOYD</b>	)	
	)	
and	)	
	)	
<b>WILKS LICENSE COMPANY-RENO LLC</b>	)	File No. BALFT-20070904ACU
	)	
For Assignment of License of FM Translator Station K273AF, Carson City, NV	)	
	)	
<b>EDDIE FLOYD</b>	)	File No. BMLFT-20071218ABH
	)	
For Modification of License of FM Translator Station K273AF, Carson City, NV	)	

To: Office of the Secretary

Attn: Chief Administrative Law Judge  
Richard L. Sippel

**MOTION FOR EXPEDITED STAY**

Wilks License Company-Reno LLC ("Wilks-Reno"), by its attorneys and pursuant to Section 1.301 of the Commission's rules, 47 C.F.R. § 1.301, hereby submits this Motion for Expedited Stay of the effectiveness of the Order (FCC 10M-18) of the Chief Administrative Law Judge released on November 19, 2010 in the above-referenced proceeding (the "Order"), pending the outcome of a prehearing conference to discuss the

ramifications of the Order.<sup>1</sup> Wilks-Reno has only until Monday, November 29 to seek an appeal so expedited action on this Motion is respectfully requested.

1. As indicated in the “Motion Requesting a Prehearing Conference” concurrently being filed by Wilks-Reno under separate cover, the Order confronts Wilks-Reno with the horns of a dilemma. The Order effectively requires Wilks-Reno to respond to the admissions (the “Admissions”) as to which it has raised relevancy and privilege objections. Under the Order, and absent a stay, Wilks-Reno must either respond to the Admissions, as instructed, in which case it will have waived its constitutionally protected attorney-client and attorney work product privilege rights, or it must file by Monday, November 29, an immediate appeal of the Order as denying its privilege claim, which is authorized by Section 1.301(a)(2) of the Commission’s Rules. The Order does not address the privilege claims raised by Wilks-Reno. In a separate pleading, Wilks-Reno is contemporaneously requesting a prehearing conference in an attempt to avoid having to file such an appeal if possible.

2. Grant of Wilks-Reno’s request for stay is necessary because, under Section 1.301(a)(2), it must file any appeal within five days of the release of the Order. Absent a stay, such an appeal would be due no later than Monday, November 29. Grant of the stay as requested will preserve the *status quo* and prevent irreparable injury to Wilks-Reno that would result from its compliance with the Order, and will not unduly prejudice the Chief Administrative Law Judge or any party to this proceeding.<sup>2</sup>

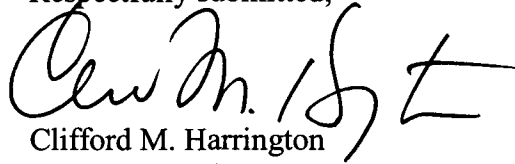
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<sup>1</sup> On November 22, 2010, Enforcement Bureau counsel and counsel for Eddie Floyd were notified by voicemail and email of Wilks-Reno’s intent to file the instant Motion.

<sup>2</sup> In determining whether a stay is warranted, the courts and the Commission consider: (1) the threat of irreparable harm to the petitioner absent grant of the stay; (2) the likelihood that the petitioner will prevail on the merits; (3) the harm to other parties from grant of the stay; and (4) the harm to the public interest should the stay be granted. *See Washington Metropolitan Area Transit Authority v. Holiday*

WHEREFORE, Wilks-Reno respectfully requests the Presiding Judge grant this Motion for Expedited Stay.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cliff M. Harrington", with a stylized flourish at the end.

Clifford M. Harrington

Paul A. Cicelski

*Counsel for Wilks License Company-Reno  
LLC*

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Dated: November 23, 2010

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*Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977). To show that a stay should be granted, Wilks-Reno need not establish that it has a certainty of success on the merits of its appeal. Rather, "it will ordinarily be enough that the [petitioner] has raised questions going to the merits so serious, substantial, difficult and doubtful, as to make them a fair ground for litigation and thus for more deliberative investigation." *Id.* at 844 (quoting *Hamilton Watch Co. v. Benrus Watch Co.*, 206 F.2d 738, 740 (2d Cir. 1953). Under this standard, the Chief Administrative Law Judge should stay the effectiveness of the Order pending the outcome of a further prehearing conference.

## **CERTIFICATE OF SERVICE**

I, Julia Colish, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that copies of the foregoing “**Motion for Expedited Stay**” were served on this 23rd day of November, 2010, to the following:

Hon. Richard L. Sippel,\*  
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Federal Communications Commission  
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Julia Colish

\*Via hand delivery and email  
\*\*Via U.S. and certified mail  
\*\*\*Via U.S. mail and email